

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

JAMES TUCKER,
202 Norham Drive
Cary, North Carolina 27513,

Plaintiff,

v.

UNITED STATES OF AMERICA,
Serve: Jefferson Beauregard Sessions
950 Pennsylvania Avenue, NW
Washington, DC 25030-0001,

And

Jeffrey B. Jensen, U.S. Attorney
Thomas Eagleton U.S. Courthouse
111 S. 10th Street, 20th Floor
St. Louis, Missouri 63102,

AND

KINITA MOORE

Serve at:

9806 W. Main Street
Belleville, Illinois 62223,

Defendants.

Case No. _____

COMPLAINT

COMES NOW Plaintiff James Tucker, by and through counsel, and for his cause of action against the Defendants states as follows:

1. Plaintiff James Tucker (hereafter "Plaintiff") is a resident of the State of North Carolina.
2. Plaintiff brings this action pursuant to 28 U.S.C. § 2671, et seq., the Federal Tort Claims Act.

3. All administrative remedies have been timely filed, pursued, and exhausted pursuant to 28 U.S.C. § 2671-2675.

4. At all times mentioned herein, and specifically at the time of the pedestrian-automobile crash out of which this suit arises, Defendant Kinita Moore was an employee of the United States of America, specifically she was a driver for the United States Postal Service.

5. At all times mentioned herein, and specifically at the time of the pedestrian-automobile crash out of which this suit arises, Defendant Kinita Moore was acting within the course and scope of her employment with the United States of America as a postal carrier/driver for the United States Postal Service (USPS).

6. Defendant Kinita Moore is subject to this Court's supplemental jurisdiction, pursuant to 28 U.S.C. § 1367.

7. On November 7, 2016, Plaintiff was in the City of St. Louis conducting business as a consultant.

8. On November 7, 2016, at approximately 11:41 a.m., Defendant United States of America, through its agent, servant and employee Defendant Kinita Moore, was operating United States Postal Truck #7225579 northbound on South 7th Street approaching the intersection of South 7th Street and Market Street in the City of St. Louis, Missouri intending to make a left turn from South 7th Street onto westbound Market Street.

9. On November 7, 2016, at approximately 11:41 a.m., Defendant United States of America, through its agent, servant and employee Defendant Kinita Moore, operated United States Postal Truck #7225579 in such a way that she struck Plaintiff with the truck while Plaintiff was walking within the crosswalk, causing Plaintiff to be forcibly knocked down onto the asphalt street and injured.

10. At the time that Defendant Kinita Moore struck Plaintiff with United States Postal Truck #7225579, Plaintiff was lawfully walking north across Market Street within the crosswalk while the pedestrian signal was activated allowing Plaintiff to walk.

11. Upon being struck by the United States Postal Truck #7225579 and forcibly knocked down onto the asphalt street, Plaintiff suddenly and immediately complained of injuries to his left arm and wrist, and said left arm and wrist injuries continue to cause Plaintiff pain and discomfort to this day.

12. A true and accurate copy of the Missouri Uniform Crash Report generated in connection with the November 7, 2016 pedestrian-vehicle collision at issue is attached as Exhibit 1, and is incorporated by reference as if fully set forth herein.

13. The pedestrian-vehicle collision occurred as a direct result of the negligence of Defendant United States of America, individually, and/or by and through Defendant Kinita Moore, individually, in one or more of the following respects:

- (a) Defendant Kinita Moore negligently operated the USPS truck at an excessive speed;
- (b) Defendant Kinita Moore negligently failed to keep a careful lookout;
- (c) Defendant Kinita Moore negligently failed to yield to Plaintiff in the crosswalk;
- (d) Defendant Kinita Moore negligently failed to stop, swerve, slacken speed or sound a warning;
- (e) Defendant United States of America negligently hired Defendant Kinita Moore as a USPS driver when Defendant knew or should have known that Defendant Kinita Moore was an unsafe and dangerous driver, as exhibited by her past driving record – a true and accurate copy of Defendant Kinita Moore's Illinois Driver Record Abstract is attached as Exhibit 2, and is incorporated by reference as if fully set forth herein;

- (f) Defendant United States of America negligently failed to adequately train and/or instruct Defendant Kinita Moore in the rules of the road and proper operation of the USPS vehicle; and/or
- (g) Defendant United States of America negligently failed to adequately supervise Defendant Kinita Moore in the operation of the USPS vehicle.

16. As a result of his left arm and wrist injuries, Plaintiff was forced to terminate his business in St. Louis prematurely, and return home where he sought out and obtained medical care and treatment for his injuries.

17. On November 9, 2016, Plaintiff learned that he had sustained a left ulnar styloid fracture of his left wrist as a result of Defendant Kinita Moore striking Plaintiff with the United States Postal Truck #7225579 on November 7, 2016.

18. A true and accurate copy of Plaintiff's Medical Records from his November 9, 2016 Emergency Room visit to UNC Rex Hospital are attached as Exhibit 3, and are incorporated by reference as if fully set forth herein.

19. As a direct result of the negligence of Defendants as aforesaid, Plaintiff James Tucker sustained injuries and damages to the various bones, joints, muscles, nerves and systems of his body; specifically, injury to his left arm and wrist; he has incurred medical expenses in an amount yet to be determined and may in the future incur medical expenses; his injuries are permanent and progressive; his ability to work, labor, take care of his wife, and enjoy life has been and will in the future be impaired, all to his damage.

WHEREFORE, Plaintiff prays judgment against Defendants in an amount that is fair and reasonable, in excess of the minimum jurisdiction of this together with costs expended herein, and for such other relief as the Court considers proper under the circumstances.

Respectfully submitted,

MILLIKAN WRIGHT LLC

By: 

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